

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By Chairman Diane Rice, on February 13, 2007 at 8:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Diane Rice, Chairman (R)  
Rep. Dave Gallik, Vice Chairman (D)  
Rep. Ron Stoker, Vice Chairman (R)  
Rep. Douglas Cordier (D)  
Rep. Robyn Driscoll (D)  
Rep. Bob Ebinger (D)  
Rep. George Everett (R)  
Rep. Julie French (D)  
Rep. Rick Jore (C)  
Rep. Krayton Kerns (R)  
Rep. Roger Koopman (R)  
Rep. Deborah Kottel (D)  
Rep. Tom McGillvray (R)  
Rep. Jesse O'Hara (R)  
Rep. Ken Peterson (R)  
Rep. Holly Raser (D)  
Rep. John Ward (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** David Niss, Legislative Branch  
Katie Butcher, Committee Secretary

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

**Committee Business Summary:**

Hearing & Date Posted:	HB 579, HB 585, HB 597, HB 595
Executive Action:	HB 256, HB 60, HB 397, HB 379, HB 423, HB 435, HB 452, HB 456,

Executive Action continued: HB 462, HB 467

**HEARING ON HB 579**

**Opening Statement by Sponsor:**

00:01:21 Rep. Alan Olson (R), HD 45, opened the hearing on HB 579, Revise law on excess proceeds from trustee sale.

**Proponents' Testimony:**

00:02:23 Rhonda Wiggers, Montana County Treasures Association

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

00:04:52 Rep. Olson

---

**HEARING ON HB 585**

**Opening Statement by Sponsor:**

00:05:28 Rep. Jim Keane (D), HD 75, opened the hearing on HB 585, Additional duties for county commissioners.

**Proponents' Testimony:**

00:06:20 Bill Kennedy, Yellowstone County Commissioner

00:06:54 Doug Kaercher, Hill County Commissioner

00:07:22 Vic Miller, Blaine County Commissioner

00:08:31 John Pretty On Top, Big Horn County Commissioner

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:09:44 Rep. Cordier

00:10:04 Rep. Keane

00:11:42 Rep. Ebinger

00:12:29 Rep. Keane

00:13:05 Rep. Peterson

00:13:39 Rep. Keane

00:14:04 Rep. Gallik

00:14:22 Rep. Keane

**Closing by Sponsor:**

00:14:56 Rep. Keane

**HEARING ON HB 595**

**Opening Statement by Sponsor:**

00:15:21 Rep. Sue Dickenson (D), HD 25, opened the hearing on HB 595, Increase license suspension for refusing blood alcohol test.

**Proponents' Testimony:**

00:22:07 Allan Recke, Cascade County Driving Under the Influence (DUI) Task Force

00:24:56 Chris Minard

**EXHIBIT(juh32a01)**

00:26:05 Jim Smith, Montana County Attorneys Association

00:27:53 Rep. O'Hara

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

00:28:33 Rep. Kottel

00:29:24 Mr. Smith

00:39:34 Rep. McGillvray

00:40:39 Rep. Dickenson

00:43:30 Rep. O'Hara

00:43:46 Mr. Recke

00:47:21 Rep. Koopman

00:49:14 Mr. Smith

00:54:12 Rep. Peterson

00:54:36 Mr. Recke

00:56:31 Rep. Cordier

00:58:02 Mr. Recke

**Closing by Sponsor:**

01:03:44 Rep. Dickenson

**HEARING ON HB 597**

**Opening Statement by Sponsor:**

01:11:01 Rep. Ron Stoker (R), HD 87, Opened the Hearing on HB  
597, Allow Ordinances on Obscenity to Minors More  
Restrictive than State Law.

[EXHIBIT\(juh32a02\)](#)

**Proponents' Testimony:**

01:12:33 Dallas Erickson, Montana Supporters for Decency

[EXHIBIT\(juh32a03\)](#)

01:20:40 Lynn Stumberg, Eagle Forum

[EXHIBIT\(juh32a04\)](#)

01:21:48 Bill Guyaz

[EXHIBIT\(juh32a05\)](#)

01:23:56 Rachel Roberts, Montana Family Foundation

[EXHIBIT\(juh32a06\)](#)

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

01:28:09 Rep. Kottel

01:29:01 Mr. Erickson

01:34:37 Rep. Rice

01:35:08 Mr. Erickson

01:35:55 Rep. Peterson

01:36:14 Mr. Erickson

01:36:54 Rep. Raser

01:37:33 Mr. Erickson

01:41:13 Rep. Driscoll

01:41:21 Amy Grmolgez

01:41:33 Rep. Driscoll

01:41:52 Ms. Grmolgez

01:43:17 Rep. McGillvray

01:43:31 Mr. Erickson

01:45:05 Rep. French

01:45:32 Mr. Erickson

**Closing by Sponsor:**

01:46:19 Rep. Stoker

01:48:57 Break

02:01:38 Reconvene

**EXECUTIVE ACTION ON HB 256**

02:05:17 **Motion:** Rep. McGillvray moved that **HB 256 DO PASS.**

02:06:30 **Motion:** Rep. Stoker moved that **HB 256 BE AMENDED AND THAT THE COMMITTEE SHOULD STRIKE THE LINE THAT STATES "HOWEVER, A SELLER OF AN UNDIVIDED FRACTIONALIZED LONG-TERM ESTATE IN REAL PROPERTY THAT IS A SECURITY MUST BE LICENSED UNDER 31-51-301."**

02:10:35 **Vote:** Motion carried unanimously by voice vote.

02:10:42 **Motion:** Rep. Stoker moved that **HB 256 DO PASS AS AMENDED.**

**Discussion:**

02:10:53 Rep. Gallik

02:11:16 Rep. Stoker

02:13:01 David Niss

02:13:58 Rep. Gallik

02:15:28 Rep. Stoker

02:15:37 **Motion/Vote:** Rep. Gallik made a conceptual amendment to **STRIKE SECTION 4.** Motion carried unanimously by voice vote.

02:16:16 **Motion/Vote:** Rep. Stoker moved that **HB 256 DO PASS AS AMENDED.** Motion carried 16-1 by roll call vote with Rep. Driscoll voting no.

**EXECUTIVE ACTION ON HB 310**

02:17:45 **Motion:** Rep. McGillvray moved that **HB 310 DO PASS.**  
Committee failed to act on motion

**EXECUTIVE ACTION ON HB 60**

02:18:58 **Motion:** Rep. McGillvray moved that **HB 60 DO PASS.**

02:19:32 **Motion:** Rep. Gallik moved that **HB 60 BE AMENDED.**  
**EXHIBIT**(juh32a07)

**Discussion:**

02:22:26 Rep. Peterson

02:22:48 Rep. Gallik

02:24:29 **Vote:** Motion carried unanimously by voice vote.

02:24:39 **Motion:** Rep. Stoker moved that **HB 60 DO PASS AS AMENDED.**

**Discussion:**

02:24:46 Rep. Everett

02:25:01 Rep. Rice

02:25:10 Rep. Kerns

02:25:30 Rep. Peterson

02:26:47 Rep. Gallik

02:27:21 Rep. Stoker

02:28:49 Rep. Cordier

02:30:07 Rep. McGillvray

02:30:39 Rep. Peterson

02:31:16 **Vote:** Motion carried 10-7 by roll call vote with Rep. Everett, Rep. Jore, Rep. Kerns, Rep. Koopman, Rep. McGillvray, and Rep. Rice voting no.

**EXECUTIVE ACTION ON HB 379**

02:33:26 **Motion:** Rep. McGillvray moved that **HB 379 DO PASS.**

**Discussion:**

02:33:39 Rep. Kottel

02:35:16 Rep. Peterson

02:35:53 Rep. Everett

02:36:14 Rep. Gallik

02:36:42 Rep. Stoker

02:36:54 **Vote:** Motion failed unanimously by roll call vote.

02:37:55 **Motion/Vote:** Rep. Rice moved that **HB 379 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

**EXECUTIVE ACTION ON HB 397**

02:38:15 **Motion:** Rep. McGillvray moved that **HB 397 DO PASS.**

**Discussion:**

02:39:10 Rep. Ward

02:40:01 Rep. Koopman

02:40:39 Rep. Peterson

02:41:39 **Vote:** Motion carried 14-3 by roll call vote with Rep. Peterson, Rep. Rice, and Rep. Stoker voting no.

**EXECUTIVE ACTION ON HB 423**

02:43:01 **Motion:** Rep. McGillvray moved that **HB 423 DO PASS.**

02:43:33 **Motion/Vote:** Rep. French moved that **HB 423 BE AMENDED.**  
Motion carried unanimously by voice vote.

**EXHIBIT**(juh32a08)

02:44:36 **Motion:** Rep. Stoker moved that **HB 423 DO PASS AS AMENDED.**

**Discussion:**

02:44:44 Rep. Peterson

02:46:29 Rep. Stoker

02:46:41 Rep. Cordier

02:47:28 Rep. Rice

02:47:47 Rep. French

02:48:32 Rep. Kottel

02:49:53 **Vote:** Motion carried 13-4 by roll call vote with Rep. Everett, Rep. Jore, Rep. Koopman, and Rep. Rice voting no.

**EXECUTIVE ACTION ON HB 435**

02:51:22 **Motion:** Rep. McGillvray moved that **HB 435 DO PASS.**

02:52:19 **Motion:** Rep. Kottel moved that **HB 435 BE AMENDED.**  
**EXHIBIT**(juh32a09)

02:56:31 **Substitute Motion:** Rep. Gallik made a substitute motion  
**TO SEGREGATE PARAGRAPH THREE.**



**Discussion:**

02:58:19 Rep. Rice  
02:58:33 Rep. Kottel  
03:00:13 Rep. Gallik  
03:01:08 Rep. Kottel

03:02:27 **Vote:** Motion failed 3-14 by voice vote. Rep. Ebinger,  
Rep. Gallik, and Rep. Koopman voted aye.

**Discussion:**

03:03:21 Rep. Cordier  
03:03:35 Rep. Kottel  
03:04:43 Rep. Peterson  
03:05:35 Rep. Koopman  
03:06:21 Rep. Kottel  
03:10:11 Rep. Ward  
03:10:19 Rep. Peterson

03:10:40 **Vote:** Motion to amend carried by voice vote. Rep.  
Gallik voted no. (Exhibit 9)

03:10:54 **Motion:** Rep. Stoker moved that **HB 435 DO PASS AS  
AMENDED.**

**Discussion:**

03:11:02 Rep. Gallik  
03:11:56 Rep. Peterson  
03:12:35 Rep. Raser  
03:12:58 Rep. Kottel

03:13:27 **Vote:** Motion carried 16-1 by roll call vote with Rep.  
Gallik voting no.

**EXECUTIVE ACTION ON HB 452**

03:14:32 **Motion:** Rep. McGillvray moved that **HB 452 DO PASS.**

03:14:59 **Motion:** Rep. Kottel moved that **HB 452 BE AMENDED.**  
**EXHIBIT** (juh32a10)

**Discussion:**

03:22:01 Rep. Peterson  
03:23:38 Rep. Koopman  
03:25:27 Rep. Kottel

03:27:32 **Vote:** Motion carried 15-2 by voice vote with Rep. Jore And Rep. Koopman voting no.

03:27:49 **Motion:** Rep. Stoker moved that **HB 452 DO PASS AS AMENDED.**

**Discussion:**

03:28:01 Rep. Peterson

03:29:36 **Vote:** Motion carried 13-4 by roll call vote with Rep. Everett, Rep. Jore, Rep. Rice, and Rep. Stoker voting aye.

**EXECUTIVE ACTION ON HB 453**

03:31:10 **Motion:** Rep. McGillvray moved that **HB 453 DO PASS.** Committee took no action.

**EXECUTIVE ACTION ON HB 456**

03:33:29 **Motion:** Rep. McGillvray moved that **HB 456 DO PASS.**

**Discussion:**

03:34:00 Rep. Stoker

03:34:16 **Vote:** Motion carried unanimously by voice vote.

**EXECUTIVE ACTION ON HB 462**

03:35:17 **Motion:** Rep. McGillvray moved that **HB 462 DO PASS.**

03:35:50 **Motion:** Rep. Raser moved that **HB 462 BE AMENDED.**  
**EXHIBIT(juh32a11)**

03:37:18 **Substitute Motion:** Rep. Raser made a substitute motion **TO SEGREGATE PARAGRAPH ONE.**

03:38:31 **Vote:** Motion carried 11-6 by voice vote with Rep. Driscoll, Rep. Everett, Rep. Koopman, Rep. Peterson, Rep. Rice, Rep. Ward voting no.

03:38:51 **Motion:** Rep. Stoker moved that **HB 462 BE AMENDED.**  
(amendment Item 1 only)

**Discussion:**

03:39:16 Rep. O'Hara

03:39:51 **Vote:** Motion carried 16-1 by roll call vote. Rep. Jore voted no by proxy.

03:42:01 **Motion:** Rep. McGillvray moved that **HB 462 BE AMENDED.**  
(amendment Items 2,3,4,5)

**Discussion:**

03:42:28 Rep. McGillvary

03:43:02 Rep. Gallik

03:43:09 Rep. Raser

03:43:40 Rep. Ward

03:44:31 **Vote:** Motion failed 5-12 by roll call vote. Rep. Stoker, Rep. Gallik, Rep. Cordier, Rep. Driscoll, Rep. Ebinger voted aye. Rep. Jore voted no by proxy.

03:45:43 **Motion:** Rep. Stoker moved that **HB 462 DO PASS AS AMENDED.**

**Discussion:**

03:46:48 Rep. Koopman

03:47:47 Rep. McGillvray

03:48:30 Rep. Gallik

03:48:57 Rep. McGillvray

03:49:07 Rep. Raser

03:50:01 Rep. Everett

03:50:27 Rep. Peterson

03:51:07 Rep. Gallik

03:52:24 Rep. Koopman

03:55:03 Rep. McGillvray

03:55:10 **Vote:** Motion carried 10-7 by roll call vote with Rep. Kerns, Rep. Koopman, Rep. McGillvray, Rep. O'Hara, Rep. Peterson, and Rep. Rice voting no. Rep. French voted aye by proxy. Rep. Jore voted no by proxy.

**EXECUTIVE ACTION ON HB 467**

03:56:36 **Motion:** Rep. McGillvray moved that **HB 467 DO PASS.**

03:56:50 **Motion:** Rep. Peterson moved that **HB 467 BE AMENDED.**  
**EXHIBIT(juh32a12)**

03:59:50 **Vote:** Motion carried unanimously by voice vote.

04:00:13 **Motion:** Rep. Stoker moved that **HB 467 DO PASS AS AMENDED.**

**Discussion:**

04:00:18 Rep. Kottel

04:03:32 Rep. Peterson

04:06:00 Rep. Kottel

04:07:10 **Vote:** Motion carried 13-4 by roll call vote with Rep. Cordier, Rep. French, Rep. Kottel, and Rep. Stoker voting no. Rep. Jore voted aye by proxy.

**EXECUTIVE ACTION ON HB 468**

04:08:31 **Motion:** Rep. McGillvray moved that **HB 468 DO PASS.**

04:09:02 **Motion/Vote:** Rep. McGillvray moved that **HB 468 BE AMENDED.** Motion carried unanimously by voice vote.  
**EXHIBIT(juh32a13)**

04:10:17 **Motion:** Rep. Stoker moved that **HB 468 DO PASS AS AMENDED.**

**Discussion:**

04:10:30 Rep. Everett

04:10:49 Rep. McGillvray

04:12:01 Rep. Cordier

04:13:01 Rep. French

04:13:57 Rep. Raser

04:14:38 Rep. McGillvray

04:14:58 Rep. Raser

04:15:34 Rep. Gallik

04:16:00 Rep. McGillvray

04:16:17 Rep. Raser

04:17:11 Rep. McGillvray

04:17:57 Rep. Peterson

04:20:41 Rep. Kerns

04:21:16 Rep. Stoker

04:23:07 Rep. Gallik

04:25:12 **Vote:** Motion carried 12-5 by roll call vote with Rep. Driscoll, Rep. Everett, Rep. Gallik, Rep. Peterson, and Rep. Raser voting no. Rep. Jore voted aye by proxy.

---

---

**ADJOURNMENT**

04:27:57 Adjournment

---

REP. DIANE RICE, Chairman

---

KATIE BUTCHER, Secretary

DR/ps

Additional Exhibits:

**EXHIBIT ([juh32aad.pdf](#))**